



ET Planning

Planning Statement

Client:

Mustafa Abdel Halim

24 Baker Street

Reading, RG1 7XX

Certificate of Lawfulness of Existing Use for Change of use from C3 family dwelling to C4 House in Multiple Occupation

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01 Introduction

- 1.1 This statement is produced to support a planning application for a Certificate of Lawful Development for the subdivision of the former single dwelling (C3 Use Class) into a C4 Use Class HMO at 24 Baker Street, Reading, RG1 7XX.
- 1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, summarises the relevant legal tests and set out the application in light of these. The conclusion reached is that the development is lawful and so no enforcement action can be taken.
- 1.3 It is respectfully requested that, where relevant, the documents accompanying this report are kept private and confidential for the use of the Local Planning Authority only, as they contain personal and private information about occupants. This information is submitted as evidence to support the claims within this report.
- 1.4 In addition to this report, the application is accompanied by the appropriate certificate application forms, exhibits and a 1:1250 Site Location Plan.
- 1.5 The relevant application fee will be submitted by the applicant separately.

1.6 It is highlighted that in addition to this Certificate application, a separate Certificate of Lawfulness for Proposed Development is submitted for the erection of an outbuilding. As this outbuilding would constitute permitted development to the property under either a C3 or C4 use, the timing of this separate development is irrelevant in respect of the specific use class. This has been established in the Case Law of *London Borough of Brent v Secretary of State for Levelling up, Housing and Communities [2022] EWHC 2051 (Admin)*, with none of the bedrooms present in the property being considered 'self contained flats'. A copy of the Case Law is provided with that separate outbuilding submission.

02 Town and Country Planning Act 1990

2.1 Section 55(1) of the Town and Country Planning Act 1990 ('TCPA') defines development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'

2.2 Section 171B of the TCPA relates to the time frames in which enforcement action can be taken against breaches of planning control. Specifically, Section 171B(1) of this Act states:

"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of-

(a) In the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantial completed..."

2.3 Section 171B(3) of the TCPA states that:

"In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning of the date of the breach".

- 2.4 The development subject to this Certificate application involves a change of use from a C3 residential dwelling to a C4 House in Multiple Occupation ('HMO'). Consequently, Section 171B(3) of the TCPA applies, given that there have been no associated building, engineering (etc.) works involved.
- 2.5 Notwithstanding the above, permitted development rights also applied to the conversion of a C3 dwelling to a C4 HMO at the time of its conversion (see paragraph 2.7 onwards).
- 2.6 The Town and Country Planning (Use Classes) Order 1987 (as amended) defines a C4 HMO as small¹ shared houses, occupied by between 3 and 6 unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
- 2.7 For any change of use from C3 to C4 taking place prior to 2014, the older version of the General Permitted Development Order was applicable – namely, the Town and Country Planning (General Permitted Development) Order 1995 (as amended) ('1995 GPDO').
- 2.8 The 1995 GPDO was subject to numerous amendments throughout its lifespan from 1995 to the new GPDO's adoption in 2015. Appendix 1, a

¹ Small in comparison to a Sui Generis Use Class HMO, which is for more than six occupants, and is not relevant to this development.

document issued by the then named Department for Communities and Local Government in 2010, clarifies the timeframe and process for the introduction and approach to C4 HMOs, including a change of use from C3 dwellings.

2.9 **Exhibit 1** confirms that as of 2010 onwards, the conversion of C3 dwellings to C4 HMOs was granted deemed consent via the 1995 GPDO (as amended).

2.10 The exact date of the initial change of use of the property is not known, due to this having been undertaken by a former owner. However, evidence submitted shows that the change of use had taken place by 16th July 2014 (see **Exhibit 2**).

2.11 However, should there be any dispute as to the date of commencement, as of 15 April 2015 to the present day, the conversion of a C3 use to C4 is permitted under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO') (**Exhibit 9**).

2.12 Whilst the property lies in a Conservation Area, this is not applicable Schedule 2, Part 3, Class L of the GPDO.

2.13 The site does not lie in an Article 4 Direction, nor are there any known planning conditions restricted on the property that restrict the change of use in question.

2.14 Consequently at the time the change of use subject to this Certificate took place, this change of use constituted permitted development and therefore did not require the submission of a planning application. It was therefore lawful.

2.15 Due to the change in ownership of the property, extensive evidence demonstrating 10 years lawfulness is not available. However, the 10 year position is a secondary argument to the fact the change of use was permitted development.

2.16 This submission therefore focuses on demonstrating that a change of use has taken place under the provisions of Exhibit 1 (or if there is disagreement as to the specific date, Exhibit 9), with the 10 years of lawfulness being a secondary position.

2.17 Circular 10/97 (Enforcing Planning Control) was archived in March 2014 and replaced by the National Planning Policy Guidance (NPPG). The NPPG reiterates the previous guidance of the Circular and in paragraph 006 states that *"the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to*

co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land”.

2.18 It is established case law (F W Gabbitas v SSE and Newham LBC [1985] JPL 630) that the applicant’s own evidence does not need to be corroborated by “independent” evidence in order to be accepted.

2.19 Furthermore, the definition of a C4 use is a maximum of six unrelated individuals [emphasis added]. Therefore, a C4 HMO can in any case operate with fewer than 6 individuals and be considered to fall under this use class, including in terms of meeting the tests of being continuous and without interruption.

2.20 The following section outlines the evidence submitted within the Exhibits, and explains how this evidences immunity from enforcement action.

03 Assessment of Submitted Evidence

- 3.1 As explained in paragraph 2.9 above, **Exhibit 1** confirms the change of use being permitted development at the time it was implemented.
- 3.2 **Exhibit 2 - Statutory Declaration of Eva Senja Berja:** Eva Senja Berja is a former tenant of the HMO at 24 Baker Street, occupying a room within the property as part of its HMO use as of 16 July 2014 onwards. Ms Berja confirms that her room was marketed as part of a HMO to her. She utilised a room within this property as her primary residence for a continuous period until 1 November 2020.
- 3.3 Ms Berja entered into a written tenancy agreement with the landlord at the time (Ms Julieta Dunne). The agreement was for an initial period and then remaining valid as a rolling agreement. A copy of this tenancy agreement is provided as Exhibit 3.
- 3.4 Ms Berja confirms that for the duration of her tenancy, the other rooms where regularly occupied, with up to six individuals residing [NB: a C4 HMO does not need 6 people to be constantly occupying, rather it is up to 6 people]. These individuals has no prior connection before occupying the property. Ms Berja also confirms that she had unrestricted access to all communal areas of the property, i.e. none of the rooms were self-contained flats.

3.5 The Statutory Declaration therefore primarily serves to demonstrate that the change of use under permitted development was implemented, and the site has not reverted back to a C3 use at any time. As a secondary matter it highlights that the HMO had commenced by the latest of July 2014, therefore exceeding 10 years of operation.

3.6 **Exhibit 3 - Tenancy Agreement of Eva Senja Berja:** This document is provided to confirm the matters described under Exhibit 2 above, demonstrating consistent evidence.

3.7 **Exhibit 4 - Tenancy Agreement of Jamie Browne:** This document is provided to demonstrate that multiple unrelated individuals occupied the property as a HMO. In the case of Jamie Browne, his tenancy began on June 2016 for an initial 12 month period, and was ongoing after this initial period. Specifically, Jamie occupied the basement room (known as Room 6).

3.8 **Exhibit 5 – Letter addressed to Jamie Browne:** This document confirms that, as of 4 March 2025, Jamie Browne (the same individual as in Exhibit 4) remaining occupying the property as his primary residence.

3.9 **Exhibit 6 – Jamie Browne address confirmation:** This document serves to provide further confirmation (via Companies House) that Jamie Browne occupied 24 Baker Street as his primary residence.

3.10 **Exhibit 7 – Existing Floor Plans and Elevations:** The submitted Floor Plans and Elevations demonstrate the property contains 6 bedrooms across 4 levels (basement, ground, first, second/roof accommodation). In addition to this is a communal kitchen and communal bathrooms (with the rear garden also providing communal space).

3.11 It is recognised that the basement bedroom has a kitchenette and an en-suite. Not only can HMOs contain a mix of bedroom without such amenities and those with integrated amenities, but also this bedroom could not be considered a self-contained flat. This is because its access is reliant on the communal corridor of the HMO building, i.e. it cannot be self-contained. The resident of this room also had full access to the communal facilities.

3.12 Similarly, a room on the first floor has an en-suite, but not a kitchenette.

3.13 **Exhibit 8 – Location Plan:** This plan confirms the extent of the communal garden and other areas of land subject to the HMO, e.g. the frontage was used as a bin store. Hence the plan shows the extent of the change of use involved.

3.14 **Exhibit 9 – 2015 GPDO:** Provided further to paragraph 2.11 above. It is also the case that, as a fall-back position should there be any remaining dispute as to the change of use having already occurred, the property

would still have permitted development rights to change its use as a proposed situation.

04 Conclusion

- 4.1 The relevant test for Lawful Use applications is the 'balance of probability.' Based on the submission of evidence, including a Statutory Declaration which can be relied upon as true, clear and unambiguous, it is submitted that the use of the property known as 24 Baker Street undertook a lawful change of use from a C3 family dwelling to a C4 HMO prior to the date of this submission, under permitted development rights.
- 4.2 As a secondary position, evidence is provided to identify that this aforementioned lawful change of use took place in July 2014, therefore having been in place for over 10 years.
- 4.3 Due to the property changing ownership, evidence to support the 10 year use has limited availability, but nonetheless the primary case of the permitted development change of use is clear.
- 4.4 Should there be any dispute as to the specific timing that the change of use occurred, then evidence has been demonstrated to cover the lawful permitted development rights both before, on and after 15 April 2015 (due to the change in the regulatory document on this date).

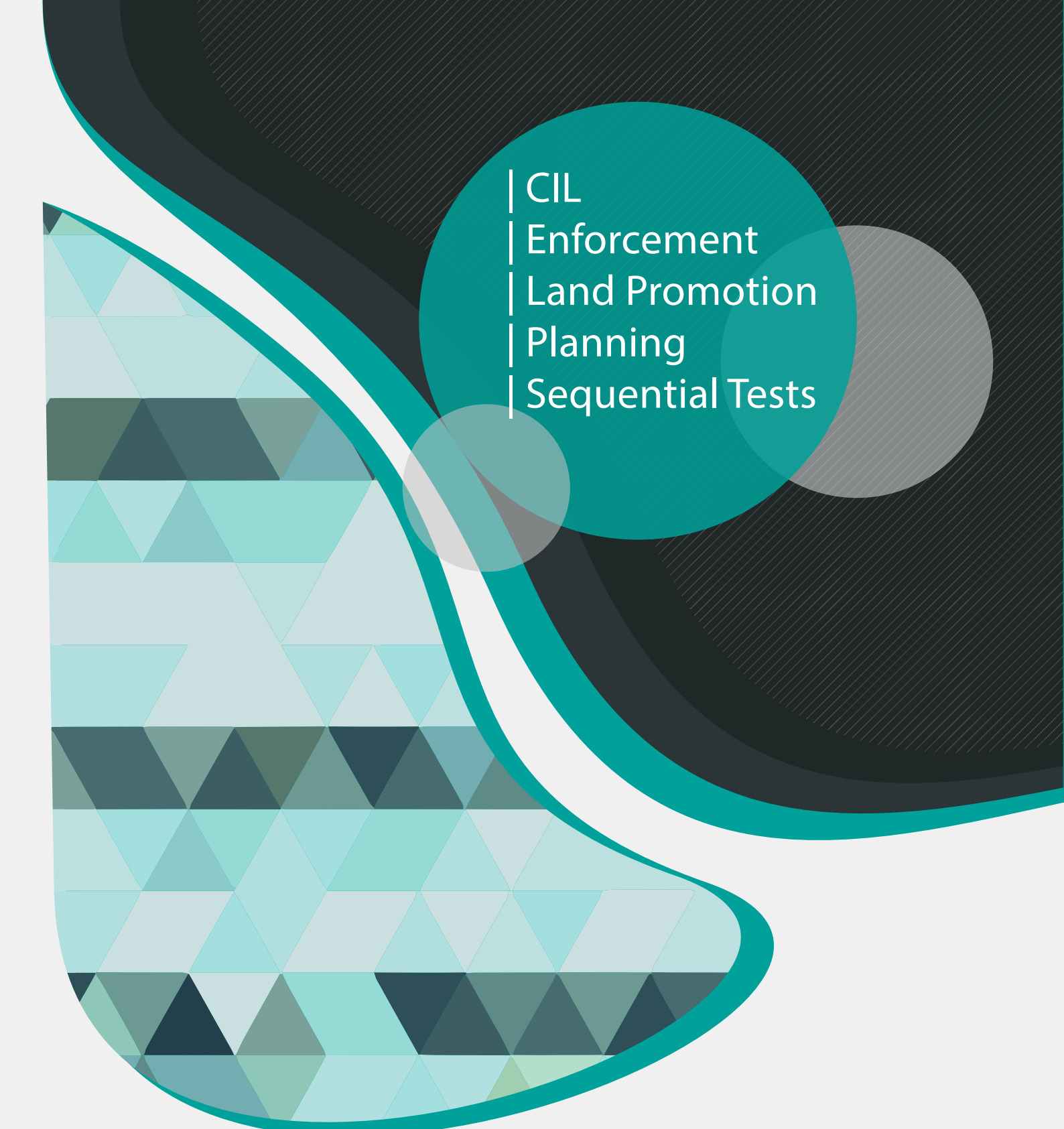
- 4.5 Furthermore, it is acknowledged that if there is any debate as to the change of use having already occurred, the property would retain its right to undertake this change of use lawfully as a proposed situation.
- 4.6 If the Council are in possession of any information that leads them to a different view to that set out above, we ask that we have the opportunity to examine this information to ensure a fair and balanced assessment
- 4.7 However, it is considered that the submitted evidence meets the tests of being clear and unambiguous. On the balance of probability, based on the submitted evidence, it is therefore requested that the application for a certificate of existing lawful use be approved.

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